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09/856,390	05/22/2001	Hans Joachim Bamert	BAMERT-1 PCT	8010

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COLLARD & ROE, P.C.  
1077 Northern Boulevard  
Roslyn, NY 11576-1696

EXAMINER
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WRIGHT, ANDREW D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/856,390

Applicant(s)

BAMERT, HANS JOACHIM

Examiner

Andrew Wright

Art Unit

3617

HW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 41-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 10/21/1999. It is noted, however, that applicant has not filed a certified copy of the 19950751.1 application as required by 35 U.S.C. 119(b).

### ***Information Disclosure Statement***

2. The information disclosure statement filed 5/22/01 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. There is no copy of German patent number 4,131,561. Accordingly, the entry on the IDS has been lined through and the reference has not been considered.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "oblong center opening" (claims 41 and 49) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The drawings appear to show a circular opening, not an oblong opening. For examination a circular opening will be assumed.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

4. The substitute specification filed January 4, 2002, has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: there is no statement that the substitute specification includes no new matter. It appears that the proposed additional paragraphs on pages 4 and 5 of the substitute specification add new matter which is not wholly supported by the original disclosure.

#### ***Claim Objections***

5. Claim 41 is objected to. Claim 41 recites "the latter" in line 12. The terminology of the already recited element should be used. In this case, it will be assumed that the recitation refers to the "oblong center opening". Appropriate correction is required.

6. Claim 44 is objected to. Claim 44 recites "a sealing ring (20)". Claim 44 depends from claim 43 which already recited "a sealing ring (20)". It is improper to positively

recite the same element more than once. The subsequent recital should be preceded by "the" or "said" instead of "a". Appropriate correction is required.

7. Claim 45 is objected to. Claim 45 recites "a sealing ring (16)". Claim 45 depends from claim 43 which already recited "a sealing ring (20)". Even though reference numbers are used, the elements of the claim should be given different names to avoid confusion. For example, one sealing ring could be a first sealing ring, and the other could be a second sealing ring. Appropriate correction is required.

8. Claim 51 is objected to. Claim 51 recites "a blocking element (40)" after a blocking element has already been positively recited in claim 49. It is improper to positively recite the same element more than once. Appropriate correction is required.

9. Claim 52 is objected to. Claim 52 recites "the flange (37) in line 2. There is insufficient antecedent basis for this limitation in the claim. It will be assumed that claim 52 depends from claim 51 where the flange is positively recited. Claim 52 also recites "the blocking member (40)". That claim element was recited as a blocking "element". Consistent terminology should be used. Appropriate correction is required.

10. Claim 54 recites "the blocking element (42)". That claim element was previously recited with reference number "40". Consistent terminology should be used. Appropriate correction is required.

11. Claim 55 recites "the side". There is insufficient antecedent basis for this limitation in the claim. It will be assumed that this refers to a side of the plate-shaped blocking element. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 41-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

14. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example, the grammar in lines 4-9 of claim 43 is unclear. Also, the grammar in lines 7-12 of claim 48 is unclear.

15. Further regarding claim 41, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). Claims 42-48 depend from claim 41 and are rejected for the same reason.

16. Claims 45 and 47 recite the phrase "for example". Claim 48 recites the phrase "in particular". These phrases render the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

17. Claim 48 recites "in the head part (head block)". It is unclear how the parenthetical phrase is intended to affect the scope of the claim. This renders the claim indefinite.

18. Regarding claim 49, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). Claims 50-54 depend from claim 49 and are rejected for the same reason.

***Claim Rejections - 35 USC § 102***

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

20. Claim 49 is rejected under 35 U.S.C. 102(b) as being anticipated by Lagace et al. (US 5,186,050). Lagace shows a cylinder (2) that integrally comprises sleeve body (below shoulder (16)) and head part (above shoulder (16)). Sleeve body has an elongate center opening (14). Head part has a center opening (18). The two openings are connected in watertight manner by intermediate opening (12). The two openings are coaxial and the same size and shape (column 3, lines 63-65). The sleeve extends through a hole in the hull. The openings can hold a log transmitter. Blocking element (50) is provided with swiveling mobility in the head part. Blocking element can block the openings to prevent water from entering the hull when the log transmitter is not in place.

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 41, 42, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell (US 2,362,298) in view of Star (US 988,832). Newell shows a device comprising a sleeve body (lower portion of tube (1)) that extends through a hole in the hull. The sleeve body has an elongated circular opening into which a log transmitter (12) can be inserted. Head part is the valve body and upper part of tube (1) that are attached to the upper end of the sleeve body. The head part is connected in a watertight manner to the sleeve body. The head part has a center opening that is coaxial with, connected to, and the same and shape as the circular opening of the sleeve body. Both openings jointly receive the log transmitter in a watertight manner. The openings can be blocked by valve (8). The valve is within valve body which is part of the head part. Newell discloses a gate valve, but does not disclose that the valve is a blocking slide that is transversely moveable. Star shows a device similar to that of Newell. Star shows a sliding gate valve (16) that is transversely moveable in the head part. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Newell by using the sliding gate valve shown by Star. Newell does not disclose the details of the valve, and one wishing to make or use the Newell device would necessarily need to provide a valve (8). The skilled artisan



would be motivated to look to the prior art for such as valve. Star shows a valve that is used in the same type of apparatus for the same purpose. The skilled artisan would be motivated to use the Star valve for the purpose of using what is known in the prior art.

23. Regarding claim 42, Newell does not disclose that the head part is connected to the sleeve body by a threaded ring. The head part comprises the upper end of tube (1) and the valve body. The sleeve body is held in the lower end of the valve body. Newell does not disclose the specific detail of the connection between the sleeve body and valve body. It is well known and common to use a threaded connection between and pipe and valve body. Newell teaches that the cap (10) is connected to the upper end of tube (1) by a threaded connection. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Newell by making a threaded connection between the valve body and the sleeve body. The motivation would be to use a connection structure that is well known in the art, and one that allows for disassembly for repair and replacement of the device.

24. Claim 47 recites that the log transmitter can be supported on the walls of the openings. This is not a positive recitation. The log transmitter (12) of Newell *could* be supported by sealing rings such as O-rings.

25. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newell in vie of Star as applied to claim 41 above, and further in view of Lagace et al. (US 5,186,050). Newell does no show an O-ring in a groove in the head part. Lagace shows a through hull fitting for a log transmitter. Lagace shows an O-ring (22) in a groove (20) in a head part of the fitting. The ring enhances the watertight barrier

between the fitting and the log transmitter. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Newell by adding a groove and O-ring to the head part. The motivation would be to enhance the watertight connection between the transmitter and the head part.

26. Claims 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell (US 2,362,298) in view of Hikita (US 3,874,317). Newell shows a device comprising a sleeve body (lower portion of tube (1)) that extends through a hole in the hull. The sleeve body has an elongated circular opening into which a log transmitter (12) can be inserted. Head part is the valve body and upper part of tube (1) that are attached to the upper end of the sleeve body. The head part is connected in a watertight manner to the sleeve body. The head part has a center opening that is coaxial with, connected to, and the same and shape as the circular opening of the sleeve body. Both openings jointly receive the log transmitter in a watertight manner. The openings can be blocked by valve (8). The valve is within valve body which is part of the head part. Newell discloses a gate valve, but does not disclose that the valve is a blocking slide that is transversely moveable. Hikita shows a through-hull fitting the comprises a valve for opening and closing an elongated circular opening within the fitting. Hikita shows a pivotable valve gate (71). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Newell by using the pivoting gate valve shown by Hikita. Newell does not disclose the details of the valve, and one wishing to make or use the Newell device would necessarily need to provide a valve (8). The skilled artisan would be motivated to look

to the prior art for such as valve. Hikita shows a valve that is used in a boat for the same purpose as the valve of Newell – to open and close a through-hull fitting. The skilled artisan would be motivated to use the Hikita valve for the purpose of using what is known in the prior art.

27. Regarding claim 50, Newell does not disclose that the head part is connected to the sleeve body by a threaded ring. The head part comprises the upper end of tube (1) and the valve body. The sleeve body is held in the lower end of the valve body. Newell does not disclose the specific detail of the connection between the sleeve body and valve body. It is well known and common to use a threaded connection between and pipe and valve body. Newell teaches that the cap (10) is connected to the upper end of tube (1) by a threaded connection. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Newell by making a threaded connection between the valve body and the sleeve body. The motivation would be to use a connection structure that is well known in the art, and one that allows for disassembly for repair and replacement of the device.

### ***Conclusion***

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clear ('094) shows a slide valve for a through-hull fitting. Chase ('008) shows a pivoted valve for a through-hull fitting. Baule ('205) shows a logger holder with a slide valve. Walker ('039) shows a logger holder with a valve. Baule ('713) shows a logger holder with a valve. Munster et al. ('332) shows a logger holder with a valve. Rockall et al. ('756) shows a logger holder with a valve. Fassett ('770)

shows a through-hull fitting for a logger. Boucher et al. ('025) shows a through-hull fitting for a logger.

29. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright  
Patent Examiner  
Art Unit 3617

Handwritten signature and date 6/10/04.